

MINUTES
NATURAL RESOURCES COMMISSION

July 8-9, 2004

Lansing Center
333 E. Michigan
Lansing
-and-
Stevens T. Mason Building
530 W. Allegan
Lansing

PRESENT FOR THE COMMISSION

Mary Brown
Keith Charters, Chairman
Bob Garner
John Madigan
Frank Wheatlake

ABSENT FOR THE COMMISSION

Jerry Hall

PRESENT FOR STAFF

Rebecca Humphries, Director
Dennis Fedewa, Chief Deputy
Dennis Fox, Chief of Staff
George Burgoyne, Resource Management Deputy
Jim Ekdahl, Upper Peninsula Field Deputy
Department Staff

COMMITTEE OF THE WHOLE

Chairman Charters called the Committee of the Whole meeting of the Natural Resources Commission (NRC) to order at 3:04 p.m. on Thursday, July 8, 2004. The Committee of the Whole is a working session of the NRC.

DNR Personnel Introductions and Announcements

Director Humphries introduced **Dennis Fedewa** as the newly appointed Chief Deputy for the DNR. Mr. Fedewa most recently worked Budget Director and Chief of Financial Business Services Division, for the Department of Environmental Quality. Prior to that, he worked with the House Fiscal Agency. The NRC welcomed him to the Department.

Director Humphries announced that **Mindy Koch** has been selected as the new Resource Management Deputy for the DNR. The NRC congratulated Ms. Koch on her new appointment that will be effective July 19, 2004.

Mining and Minerals Leasing Work Group Update

Mindy Koch, Chief, Forest, Mineral and Fire Management Division, presented an update on the activities of the Metallic Mineral Leasing Work Group since in the April 2004 NRC meeting. At the April meeting, the NRC requested that the DNR review the metallic minerals leasing process as well as review the existing minerals mining lease and prepare a proposal in a 90 day timeframe. The Work Group was formed with a very diverse membership of approximately 21 people from both State government and non-State government entities.

The Work Group has met. Following are recommended leasing procedure changes:

- Public noticing will be done at the same time field staff receives the request to review a nomination;
- Developed criteria to be used in the lease classification process;
- Created a non-development lease consistent with oil and gas review;
- Recommended a 1320 foot setback requirement from bodies of water for development, allowing exceptions;
- The \$2 per acre bonus will be modified to \$3 per acre based on the rate of inflation;
- Eliminate the payback of minimum royalty requirements from current production;
- Consensus was reached on the point of valuation "Net Smelter Return" with deductions of costs;
- Consensus that the 2 to 7 percent sliding scale of mineral value moves from the low end too quickly but is low in relationship to the ceiling;
- Clarified when rent would be paid and when minimum royalty would be paid;
- Relative to audits, if found to be in noncompliance with royalty provisions, the company pays for the audit.

Commissioner Wheatlake commended the Work Group for their timely efforts and on a job well done. **Ms. Koch** recommended continuing leasing during the review process for those who have an approved lease. The NRC concurred.

Pigeon River Oil and Gas Operations Update

Lynne Boyd, Forest, Mineral and Fire Management Division, reported that the Director and the NRC have the authority to approve the transfer of oil and gas productions rights in the Pigeon River Country State Forest (PRCSF). Shell Oil recently sold all of their oil and gas assets in Michigan to Merit Energy. In February of this year, the Director received notice from Shell Oil of their intent to resign as Unit Operator under the terms of the Unit Agreement, and requested approval of Merit Energy as the new Unit Operator. Merit Energy has agreed to all legally binding documents related to oil land gas production in the PRCSF. They have also agreed to additional requirements as follows: 1) Maintain a \$1 million bond and environmental impairment liability insurance to assure proper plugging and remediation of the wells in the PRCSF; 2) utilize improved site reclamation standards as approved by the Department; 3) review production levels annually to determine when a well is marginal and should be "shut in." The definition of marginal will be based on cost of operation and value of the product produced.

This recommendation to approve Merit Energy as Unit Operator for oil and gas production in the PRCSF the Director assign Shell Oil leases and transfer easements to Merit Energy is on the agenda "For Information Only" and will be on the August Agenda for Action.

Ms. Koch noted that the Pigeon River Country Advisory Council was satisfied with the recommendation.

DNR Land Review Process Update

Resource Management Deputy George Burgoyne stated that staff is in the process of reviewing approximately 2000 properties in 10 counties of Michigan in a very short time period. Staff presented the electronic data collection system that has been developed that identifies each parcel in detail as well as determines recommendations for each parcel.

Chairman Charters confirmed this is a high Departmental priority and recognized the depth and volume of the work it has and will continue to entail for staff. He offered the highest of kudos to those involved in the process.

The Committee of the Whole meeting adjourned at 4:10 p.m.

REGULAR MEETING OF THE NATURAL RESOURCES COMMISSION

Chairman Charters called the regular meeting of the Natural Resources Commission (NRC) to order at 4:30 p.m.

PUBLIC APPEARANCES

Assistant Attorney General and NRC Legal Counsel A. Michael Leffler, reported that the on June 14, 2004, the Court Ordered injunction dated September 25, 1985 enjoining defendants (DNR and NRC) from "holding, administering, overseeing, or promoting an open hunting season on mourning doves," was dissolved. Therefore, the NRC was free to discuss the issue.

Representative Susan Tabor expressed her pleasure relative to passage of the Dove Hunting Bill which classifies the dove as a game species. She said it will provide an addition hunting opportunity for Michigan hunters as has been allowed in 40 other states. She asked that the NRC closely listen to testimony from the public on this issue and make decisions in concert with best management practices. **Chairman Charters** referred to Representative Tabor as the "Mother of Doves" and thanked her for her efforts over the past many years on this issue. **Commissioner Garner** said he is pleased with this decision and that the onus is on the hunters to convince the general public that this is a hunting opportunity – not just a "target" species.

Walt Wetzel, Jackson, traps turtles and recommended changes to the turtle trapping regulations as follows: 1) No minimum size for males (since one male can breed more than one female), 2) a 10" minimum size for females, and 3) a bag limit of about 15 to 20 per year. **Commissioner Garner** referred this issue to the NRC Policy Committee on Wildlife Issues for discussion.

Ed Spinazzola, Quality Deer Management Association (QDMA), supports creating deer demonstration areas comparable to the DMU 118 experiment. He said that QDMA would support and actively participate in a statewide demonstration program of deer research using a variety of buck management techniques. He also recommended a change in the guidelines to include a simple majority on surveys for approval. The NRC will review the QDM program in December.

Dave Borgeson maintains that many listed endangered species would "get along fine" without special protection. He believes that the Endangered Species Act needs to focus on species that are most important to humans and should be interpreted or amended to give priority to those species whose loss would most threaten us and recommended that list be reviewed. Every two years the Legislature reviews the list.

Clarence Cook, Tawas Deer Ranch, commented that no late antlerless season has been granted for DMU 035 and believes the antlerless deer population could sustain that late hunt. He also commented that there were very few bucks remaining during the muzzleloading season.

Director Humphries stated that the late antlerless season did not substantially add to the total annual antlerless harvest for those areas that were studied. **Chairman Charters** stated that hunters and Representative Dale Sheltrown have expressed concern with the low deer population in DMU 035.

Cynthia Pryor, Yellow Dog Watershed Preserve and member of the Metallic Mineral Leasing Work Group, stated that millions of Upper Peninsula acres have mineral rights. She expressed concern that there will be degradation to the resources in these areas from mining activities. **Ms. Pryor** supports the activities of the Work Group, but does not support sulfide mining. She invited the NRC to visit the area and recommended that no mining be permitted in the UP until Work Group recommendations have been acted upon.

Len Stuttman, Lansing, contends that Michigan does not officially have a State bird and advocated for the Kirtland's Warbler to be the State bird.

Bill Bobier, MUCC, is a member of the Metallic Mineral Leasing Work Group and commented that opening the review of minerals mining in the UP has been beneficial in producing recommendations. He hopes that the accounting process for royalties is made as simplified as possible. He stated that the issue of "shut-in" or abandoned wells in the Pigeon River area, it is possible that because of the nature of Niagran production, that shutting-in one well will increase production in another well and supports continuing to the discussion at Workgroup meetings.

Tony Smith, Eaton County and Michigan State Chapter, QDMA, said the QDMA National Convention was recently held in Grand Rapids. He reviewed favorable comments from some who attended the Convention. He thanked Rodney Clute for attending on behalf of the DNR and stated that the QDMA will continue to support and push for QDM in Michigan.

Eileen Liska, Lobbyist, Michigan Humane Society, requests that the NRC consider banning the use of lead shot for dove hunting and that this become effective with the first dove season. She provided 11 documents/studies relative to the effects of lead shot on the environment and non-target species from lead shot. She has asked Michigan Farm Bureau to review issues relative to tilling lead into soils. **Ms. Liska** assured the NRC and staff that the Humane Society did not request the 1987 injunction enjoining the DNR and NRC from holding, administering, overseeing or promoting an open hunting season on mourning doves, but that the injunction was granted and they supported it. She also noted that the Humane Society was happy to comply with the injunction being lifted and that the Humane Society is not an animal rights group.

Mike Boyce, Michigan Association of Townships Supervisors (MATS) and Michigan Audubon Society, commented that hunting doves is an emotional issue as well as scientific one. He encouraged the NRC to make decisions based on sound science, especially relative to the use of lead shot. He stated that the MATS opposes the use of lead shot.

Assistant Attorney General Michael Leffler advised the NRC to listen but not comment on the Island Lake Shooting Range issues due to pending litigation.

Rick Weigand, Brighton, presented an audio/video tape recording the sound coming from the Island Lake Shooting Range after the sound abatement sheds were built. He believes it is still too loud and exceeds the 65 decibels.

Jenness Weigand, Brighton, insisted that excessive sounds from sporting clay activities cannot be abated. She said the sound testing should be taken at the property line above the top of the berm.

Marilyn Carr, Milford, said the sounds coming from the Island Lake Shooting Range have created a nuisance in the area and she said she does not have a problem with shooting activities at the range as long as they meet the sound ordinance.

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The meeting adjourned at 6:00 p.m. on Thursday, July 8, 2004 and reconvened at 8:30 a.m. on Friday, July 9, 2004.

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STAFF REPORTS

Single Audit

Tom Benson, Chief, Program Assistance and Review, presented the audit report on the Financial Audit of the DNR (Single Audit) for the audit period of October 1, 2001 through September 30, 2003. This was a very clean report with no material findings. Two reportable conditions were identified: 1) relating to the lack of reconciling Parks revenues-staff believes has been addressed with the implementation of a new electronic receipting system called the cash, accounting and receipting system (CARS); 2) relating to the DNR not reviewing voided licenses from the retail sales system-staff has developed a policy that requires periodic review and follow-up. **Dennis Fedewa, Chief Deputy**, said it speaks volumes for the DNR that this was a relatively clean audit and gave kudos to Mr. Benson and the Audit staff office. **Commissioner Wheatlake** also commended the Audit staff for their efforts and good work.

Budget Update

Dennis Fedewa reported that the budget bills have passed the House and the Senate and are in the process of being reported to Conference Committees. More progress is yet to be made. He discussed future activities relative to setting budgets.

Personnel Hiring Update

Director Humphries reported that there will soon be four vacant Division Chief positions. The DNR will open up the search and interview for the vacant positions in Law Enforcement and Parks and Recreation Bureau in August, and Wildlife Division and Forest, Mineral and Fire Management Divisions in September.

Legislative Update

Pending Legislative issues were discussed.

Mindy Koch commented that progress continues to resolve issues surrounding the Cheboygan-to-Gaylord Trail at Mullett Lake. The Michigan Natural Resources Trust Fund Board did not vote relative to this issue. However, the Board indicated that, if no compromise is reached they will reopen the issue for discussion at a future meeting.

APPROVAL OF MINUTES – JUNE 3-4, 2004 NATURAL RESOURCES COMMISSION MEETING

Commissioner Garner made a motion, supported by Commissioner Madigan, for approval. Motion unanimously carried.

DIRECTOR ACTION

Commissioner Wheatlake commented on the Land Transactions on the agenda, specifically the easements and his concern that, if the State were given first rights of refusal, that the easements would elevate the value of the properties.

Commissioner Wheatlake supports touting the efforts and progress of the Land Review Committee to the Legislature and the public. Discussion ensued.

Commissioner Garner supports, on behalf of the NRC Policy Committee on Wildlife Issues, the 2004 Deer and Elk License Quotas.

Director Humphries stated her intent to sign all Director's Action items on the agenda.

NRC Policy Committee on Wildlife Issues Meeting Report

Commissioner Garner, Committee Chair, reported that the NRC Policy Committee on Wildlife Issues met at 1:30 p.m. on Thursday, July 8, 2004 in Lansing. Commissioner Garner was present for the Committee and Commissioners Charters, Madigan, Wheatlake and Brown were also present. Topics of discussion included: Wildlife Regulations (including Dove Hunting Regulations); and Update on the Privately-Owned Cervid Audit; and An Endangered Species Update.

Commissioner Reports

Commissioner Wheatlake reported that the NRC Policy Committee on Finance and Administration, will meet in September; that he had several conversations with Governor Granholm, House Speaker Rick Johnson, and Senator McManus.

Commissioner Garner enjoyed a week of fishing in Canada with close friends; participated in a ceremony honoring Carl T. Johnson in honor of his 93rd Birthday; and was a presenter and/or speaker at other events.

Commissioner Madigan received several phone calls relative to antlerless deer quotas in the UP and believes the quotas were generally favorable. Madigan: phone calls on antlerless quotas and believe worked out. Lake trout fishing, up habitat work group will meet in August in Munising.

Chairman Charters received several calls regarding DNR issues, including dove hunting.

NRC POLICY COMMITTEE ON LAND MANAGEMENT – APPROVAL OF MINUTES

Commissioner Brown made a motion, supported by **Commissioner Garner**, to approve the minutes of the June 3, 2004 meeting of the NRC Policy Committee on Land Management. Motion unanimously carried.

NRC MEETING SCHEDULING

Commissioner Garner made a motion, supported by **Commissioner Madigan**, that the Chair be given discretion to schedule one-day NRC meetings with the option of carrying the meeting over to a two day meeting as needed. Motion unanimously carried.

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The meeting adjourned at 9:40 a.m.